



**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

Issued by the Department of Transportation on April 29, 2004

**NOTICE OF ACTION TAKEN -- DOCKET OST 2004-17646**

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Applicant: VOLGA-DNEPR J.S. CARGO AIRLINE      Date Filed: April 27, 2004, as supplemented April 29, 2004

Relief requested: Exemption from 49 U.S.C. section 40109(g) to permit the applicant to operate three, one-way cargo charter flights, using its AN-124-100 aircraft, carrying helicopters on behalf of the Department of Defense, during the period April 30-May 10, 2004. Each flight will be from Williams Gateway Airport, Arizona, to Pope Air Force Base, North Carolina. The applicant stated that the Department of Defense urgently needs lift of the cargo in order to meet training and mission schedules, that the cargo is too large for transportation on U.S.-carrier aircraft; and that surface transportation is not feasible because of the cargo's delicate nature, large size and urgent need for quick delivery.

Applicant representative: Glenn P. Wicks, 202-457-7790      DOT analyst: Allen F. Brown, 202-366-2405

Responsive pleadings: Volga-Dnepr served its application on those U.S. carriers operating large all-cargo aircraft. Each carrier indicated that it did not have aircraft available to conduct the proposed operation and that it had no comment or did not oppose grant of the requested authority.

Statutory Standards: Under 49 U.S.C. section 40109(g), we may authorize a foreign air carrier to carry commercial traffic between U.S. points (*i.e.*, cabotage traffic) under limited circumstances. Specifically, we must find that the authority is required in the public interest; that because of an emergency created by unusual circumstances not arising in the normal course of business the traffic cannot be accommodated by U.S. carriers holding certificates under 49 U.S.C. section 41102; that all possible efforts have been made to place the traffic on U.S. carriers; and that the transportation is necessary to avoid unreasonable hardship to the traffic involved (an additional required finding, concerning emergency transportation during labor disputes, was not relevant here).

**DISPOSITION**

Action: Approved

Action date: April 29, 2004

Effective dates of authority granted: April 29, 2004, through May 10, 2004

Basis for approval: We are granting Volga-Dnepr's request to operate its proposed three, one-way flights from Williams Gateway Airport to Pope Air Force Base, through May 10, 2004. We found that its request met all the relevant criteria of 49 U.S.C. section 40109(g) for the grant of an exemption of this type and that the grant was required in the public interest. Specifically, we were persuaded that the urgent need to move the helicopters promptly to meet urgent training and mission schedules, the fact that the cargo could not be transported by surface transportation because of its delicate nature, large size and the potential negative impact of delivery delay; and the unique, outsized nature of the cargo, constituted an emergency not arising in the normal course of business. Moreover, based on the representations of the U.S. carriers, we concluded that no U.S. carrier had aircraft available that could be used to conduct the operations at issue here. We also found that grant of this authority would prevent unreasonable hardship to the Department of Defense. Finally, we found that the applicant was qualified to perform its proposed operation.

Except to the extent exempted/waived, this authority is subject to our standard exemption conditions and to the condition that the applicant must comply with an FAA-approved flight routing for the authorized operation.

**Action taken by:**     **Karan K. Bhatia**  
                          Assistant Secretary  
                          for Aviation and International Affairs

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